

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

CHRISTOPHER R. POTTER,

Plaintiff,

v.

Case No. 19-C-1563

STATE COLLECTION SERVICE INC.,

Defendant.

ORDER FOR DISMISSAL

This Fair Debt Collection Practices Act case was commenced on October 24, 2019. An Answer was filed on November 22, 2019, and on November 25, 2019, the court set the matter for a telephone scheduling conference to be held on December 30, 2019. The notice, advising the parties of the date of the scheduling conference, directed the parties provide a telephone number at which they could be reached at least two days prior to the telephone conference. On December 30, 2019, at 9:20 a.m. the Deputy Clerk of Court attempted to reach Plaintiff's counsel. After dialing the numbers provided and receiving no response on three separate occasions, counsel for the defendant was contacted and advised the hearing could not proceed without Plaintiff's counsel.

Pretrial conferences are governed by Rule 16 of the Federal Rules of Civil Procedure. Although the court has the authority to direct parties to appear personally, this court has allowed parties to appear by telephone in order to reduce the costs of litigation. When counsel fail to be available by telephone, however, the cost of litigation for the other parties and the court increases. Rule 16(f) provides that, on motion or its own, the court may issue any just order, including those

authorized under Rule 37(b)(2)(A)(ii)–(vii) if a party or its attorney fails to appear at a scheduling or other pretrial conference. Among the sanctions available under Rule 37(b)(2) are an order “dismissing the action or proceeding in whole or in part”.

Based upon the foregoing, this action is dismissed on its merits and without costs. The dismissal is not final, however. The court will vacate this order and reopen the case upon Plaintiff’s counsel filing a motion to vacate with an explanation for his failure to attend within the next ten (10) days.

SO ORDERED at Green Bay, Wisconsin this 30th day of December, 2019.

s/ William C. Griesbach
William C. Griesbach, District Judge
United States District Court